

Message Text

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FM AMEMBASSY BONN

TO SECSTATE WASHDC IMMEDIATE 2870

USMISSION BERLIN

C O N F I D E N T I A L BONN 08571

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E.O.: 11652 GDS

TAGS: PGOV, WB, GW

SUBJECT: BERLIN DEMOCRATIC CLUB VS. SCHLESINGER

REF:A.STATE 1112201, B. BERLIN 881

1. EMBASSY IS GRATEFUL FOR THE FEEDBACK AND INFORMATION IN REFTEL A, CONCERNING DEVELOPMENTS IN WASHINGTON ON SUBJECT CASE.

2. IN ADDITION TO DEPARTMENT COMMENTS ON DRAFT BOWEN AFFIDAVIT SUMMARIZED PARA 4 REFTEL A, WITH WHICH EMBASSY AGREES, WE HAVE FOLLOWING FURTHER SUGGESTIONS: FINAL SENTENCE OF PARA 28 TO EFFECT THAT FRG AUTHORITIES MAY APPLY RESTRICTIONS TO WIRE AND POSTAL COMMUNICATIONS IS NOT READILY COMPREHENSIBLE AND MIGHT BETTER READ "MAY SUBJECT TO MONITORING OR INTERCEPT MEASURES THE WIRE OR POSTAL COMMUNICATIONS...". STATEMENT IN FIRST SENTENCE OF PARA 30 RE INFO FROM INTERCEPTS AND COUNTER-INTELLIGENCE ACTIVITIES IS MUCH TOO BROAD, WILL PROBABLY NOT STAND UP UNDER SCRUTINY. THE PROPOSED INCLUSION IN PARA 31 (3) OF PERCENTAGE FIGURES COULD BE EXTREMELY MISLEADING AND COULD RAISE GRATUITOUS PROBLEMS FOR AND THUS WITH FRG. PERCENTAGE FIGURES COULD BE SEEN TO

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IMPLY THE EXISTENCE OF MANY MORE REQUESTS AND FRG-

APPROVED INTERCEPTS THAN THERE HAVE ACTUALLY BEEN. MOREOVER, FIGURES GOING BACK TO 1968 AND INCLUDING THE EXPLORATORY WORKING-IN PERIOD AFTER THE 1968 AGREEMENT WOULD GIVE DISTORTED PICTURE OF CURRENT PRACTICES AND THE MEASURE OF SELF-RESTRAINT NOW EXERCISED BY MILITARY AUTHORITIES AND BY THE EMBASSY STAFF BEFORE DECISION IS MADE TO MAKE REQUEST FOR FRG IMPOSITION OF MEASURES. (THE FINAL SENTENCE OF PARA 4 REFTEL A IN PARENTHESES IS NOT ACCURATE AND TOUCHES ON SENSITIVE QUESTIONS OF COMPETENCE AND RESPONSIBILITIES.) FOR THESE REASONS THE EMBASSY SUGGESTS THAT THIS MEANS OF SEEKING TO PROVE THAT A TRUE REVIEW IS CARRIED OUT BEFORE REQUESTS ARE SUBMITTED TO FRG AUTHORITIES BE DELETED, PARTICULARLY ALSO AS IT WOULD HIGHLIGHT THE ABSENCE OF SIMILAR REVIEW PROCEDURES BEFORE U.S. ITSELF INITIATES SUCH MEASURES IN THE WSB. SAME COULD APPLY TO EXPLANATION OF REQUIREMENTS DESCRIBED IN THE NEXT PARA. EMBASSY FINDS STATEMENT THAT IT HAS BEEN USAREUR POLICY SINCE ENACTMENT OF G-10 LAW "TO APPLY THE SAME STANDARDS FOR INTERCEPTS, BOTH WIRE AND POSTAL, CONDUCTED BY OR FOR THE U.S. ARMY IN THE WSB" EITHER INACCURATE OR AWKWARDLY WORDED. IT SEEMS TO REPEAT TANGLED LANGUAGE OF FOOTNOTE ON PAGE 45 OF DRAFT MEMORANDUM OF LAW. FIRST SENTENCE OF FOLLOWING PARA MAKES INTENT OF PREVIOUS SENTENCE EVEN MORE UNCERTAIN. PERHAPS THE PROBLEM LIES IN THE TIME AS OF WHICH THE PROCEDURES DESCRIBED IN THESE SENTENCES BECAME APPLICABLE; IF SO, DEVELOPMENTS SHOULD BE PUT INTO A TIME FRAME. BERLIN MISSION'S RESPONSE TO REQUEST IN PARA 6 REFTEL A SHOULD BE HELPFUL FOR THIS PURPOSE. DEPARTMENT QUESTIONING THE REFERENCE TO STATIONING OF NUCLEAR WEAPONS IN THE DAVISON AFFIDAVIT, WOULD APPEAR TO MAKE PREFERABLE DELETION OF REFERENCE TO USAREUR MAINTENANCE OF PORTION U.S. NUCLEAR STOCKPILE NOW CONTAINED IN PARA 19 OF DRAFT BOWEN AFFIDAVIT, PARTICULARLY AS SUCH MENTION IN PARA 19 APPEARS OUT OF PLACE AND OPEN TO MISINTERPRETATION IN CONNECTION WITH MENTION OF SUCCESSFUL THEFTS OF EXPLOSIVES, ARMS AND AMMUNITIONS FROM U.S. INSTALLATIONS IN FRG.

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3. EMBASSY JUST INFORMED BY CAPT. BIRCH OF JAG/USAREUR THAT AFFIDAVIT SIGNED BY BOWEN MAY 26 PRESUMABLY IN FORM POUCHED BY L/EUR. EMBASSY BELIEVES THAT ABOVE COMMENTS AS APPROPRIATE BEST PASSED TO DA/OGC BY DEPARTMENT FOR POSSIBLE RE-DO OF AFFIDAVIT NOW THAT IT APPARENT THAT COURT EXTENSION GIVES USG UNTIL JUNE 6 TO FILE REPLY TO COMPLAINT.

4. EMBASSY AGREES WITH BERLIN MISSION COMMENTS ON
DRAFT AFFIDAVIT BY GENERAL COBB AS CONTAINED REFTEL B,
AND REQUESTS THAT THIS AGREEMENT BE BROUGHT TO USCOB'S
ATTENTION PENDING RECEIPT OF DEPARTMENT REACTION TO
REFTEL B.
HILLENBRAND

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